

METHOD AND SYSTEM FOR  
AUCTIONING BANKRUPTCY ASSETS AND VALUING SAME

Related Applications

[0001] The application is related to and claims the benefit of the filing date, pursuant to 35 U.S.C. §119, of commonly assigned provisional patent application serial number 60/259,263 entitled "Method and Computerized System for Buying, Selling and Auctioning of Bankruptcy Claims and Other Choses In Action" filed on December 29, 2000, which is incorporated by reference herein.

Field of the Invention.

[0002] This invention is related to auction methods and systems, more specifically to a process for automating, managing, valuing and executing auctions of assets in bankruptcy.

Background of the Invention

[0003] It is believed that the market size of bankruptcy claims trading is approximately \$25 billion per year. However, bankruptcy claims trading is known and performed by a relatively small number of sophisticated buyers that understand and follow bankruptcy filings. A conventional bankruptcy process involving one or more buyers monitoring cases filed in the U.S. Bankruptcy Court, in which the buyer has expressed an interest. The buyer may then contact the sellers of the asset(s) of the bankrupt organization at key information points. The buyer and seller may negotiate a

default, measure, combine, resellable

exchange

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price for the assets or a bankruptcy trustee may order a sale of the assets, for example, through an auction, to obtain the highest price a buyer may be willing to pay.

[0004] Depending on the sophistication of seller and their credit exposure, there is often little or no information regarding a fair market price of the bankruptcy asset(s). Similarly, there is no established method for a buyer to determine a fair market price of the bankruptcy assets. Difficulty in determining a fair market value for claims and a limited trading community further hinders the auction process. Hence, in an auction of bankruptcy assets a seller may not know whether the value received is too low and, correspondingly, a buyer may not know whether the price paid is too high.

[0005] Hence, there is a need for a method and system that creates an effective environment for trading in the sale of bankruptcy assets which can also determine a valuation of bankruptcy assets based on previous or similar sales and/or transactions.

#### Summary of the Invention

[0006] A method and system for conducting, managing and executing over a communication network, an auction of at least one claim or asset in bankruptcy to a plurality of buyers having expressed interest in items contained within the claims or assets, is disclosed. The auction method comprises, placing an indication of the availability of at least one of the assets at a remote location on the network wherein the indication is accessible by each of the plurality of buyers over the network, notifying at least one of the plurality of buyers predeterminedly expressing interest in items contained within the claims or assets of the availability of the at least one claim or asset, determining a market value of the at least one claim or asset based on historical data of

same or similar claims or assets, dynamically adjusting the market value based on known factors, receiving bids from at least one of the responding buyers, notifying one of said at least one bidding buyers of acceptance of a corresponding bid when the bid satisfies predetermined criteria and recording said accepted bid.

#### Brief Description of the Figures

[0007] The advantages, and nature, and various additional features of the invention will appear more fully upon consideration of the illustrated embodiments now to be described in detail in connection with accompanying:

[0008] Figures 1a-1e collectively illustrate a block diagram of an exemplary bankruptcy auction process in accordance with the principles of the present invention;

[0009] Figure 2 illustrates a block diagram of an exemplary process for valuing bankruptcy assets in accordance with the principles of the invention;

[0010] Figure 3 illustrates a flow chart of an exemplary process for valuing bankruptcy assets in accordance with the principles of the present invention; and

[0011] Figure 4 illustrates an exemplary system for valuing and auctioning bankruptcy assets in accordance with the principles of the invention.

[0012] It is to be understood that these drawings are solely for purposes of illustrating the concepts of the invention and are not intended as a level of the limits of the invention. It will be appreciated that the same reference numerals, possibly supplemented with reference characters where appropriate, have been used throughout to identify corresponding parts.

Description of the Preferred Embodiment

[0013] Figures 1a-1e collectively illustrate a bankruptcy auction process, as viewed from the perspective of a buyer, for trading of bankruptcy assets in accordance with one aspect of the invention. Although, not shown or discussed in detail, it would be understood that a process, as viewed from the perspective of the seller, may similarly be initiated in accordance with the principles of the invention. Hence, a process of valuing and auctioning assets as viewed by a seller is contemplated to be within the scope of the invention.

[0014] Figure 1a illustrates an exemplary bankruptcy filing processing in accordance with principles of the present invention. In this illustrative process, upon a bankruptcy filing 10, a list of creditors 20 (i.e., creditor schedule) is supplied to a bankruptcy court. Creditor schedules may be obtained directly through the court from a claim administrator, either as hard copy or electronically. The data contained within creditor list 20 is then stored in a data store for creditor information 40. Data store 40 may be a database or similar data collection device, which may be used to identify and store information regarding creditors. A subset of the data within creditor list 20 stored in the data store 40 is generated using filtering to populate a schedules database 50 that is used to analyze financial and market data to potential buyers and determine likely timing of amounts of distribution.

[0015] Identification of potential buyers 60 is then made based on factors, such as previous purchasing behavior, industry links, buyer predetermined preferences, market research, etc. Buying preferences, as stored in database 50, of each potential buyer 60 is then matched against select marketing criteria 70. Although the illustrative example

discusses the use of database 50 for determining corresponding preferences of potential buyers, it would be appreciated that list of potential buyers 60 may also be matched against preference data store in database 40.

[0016] Figure 1b is representative of a continuation of an exemplary bankruptcy asset auction process in accordance with the principles of the present invention. In this illustrative continuation of the asset auction process, at block 80 an appropriate notification method for each of the potential buyers meeting or matching criteria 70 is made. The notification method may be determined in accordance with, and responsive to, buyer predetermined or preferred methods or settings, which may be stored on data store 40 or schedule database 50. For example, buyers may pre-store preferred methods of notifications such as the illustrated e-mail notification 90, letter 100 or phone call 110. However, it would be appreciated that other notification methods may be utilized and are contemplated. A response from a notified matched buyer is then awaited at block 120. Responses may be in the form of a return phone call 140 or direct to site 150 such as communication over a network, e.g., Internet. A list of each responding buyer is then maintained.

[0017] Figure 1c is representative of a continuation of an exemplary bankruptcy auction process in accordance with the principles of the present invention after a buyer response is received. At block 160, a determination is made whether the responding buyer is a registered client or member. If the respondent is not a registered client or member, then a request is made at block 170 for the buyer to register. Registration processes are well known in the art and need not be discussed in detail herein. After registration, a buyer may, at block 180, establish preferences regarding, for example, the

types of assets, claim amounts, bid limits, etc., that the buyer has an interest. A registered buyer client or member may also predeterminedly establish methods of notification. The buyer's predetermined or preferred interests and notification method may then be used to inform a registered client or member of subsequent auctions having similar assets. Assets within database 50 (and/or data store 40) may then be identified, at block 180, using an identification number, for example, using corresponding to the buyer's preference 175. Although figure 1c represents a preferred embodiment, it would be appreciated that the process disclosed is not limited to only registered client or member buyers but may include unregistered buyers also.

[0018] Figure 1d is representative of a continuation of an exemplary bankruptcy auction process in accordance with the principles of the present invention. In this continuation of the auction process, an inquiry 200 is made regarding whether an asset/potential buyer match has been determined. If the answer is in the negative, then a notification is provided to the seller at block 210 to indicate no buyers have been determined that are interested in the assets. In another aspect of the invention, if a buyer expresses interest in buying a claim or asset but no matching claim or asset is available, the system preferably automatically begins searching for other claims from other sellers based on historical behavior or preferences of the buyer.

[0019] However, if one or more assets/buyers have been determined to exist, a determination is made, at block 240, whether a market value for the assets is available. If a market value is available then this value is provided to the potential buyers that have been matched to the assets, at block 260.

[0020] If, however, a market value is not available, then an inquiry 250 is made to determine whether a market value and/or asset score should be determined. If the answer is in the negative, then process continues at block 280.

[0021] If, however, the answer is in the affirmative, a market value and/or asset score is determined at block 270. As will be explained in more detail with regard to figures 2 and 3, a market value may be determined using historical value data for same or similar assets. In one aspect of the invention, an average market value may be determined as the average value of same assets previously sold or bidden upon. In another aspect of the invention, an average market value may be determined as a weighted average value of same and similar assets previously sold or bidden upon. In another aspect, a weighted unit asset value may be determined as the average value of a weighed average value. A market value may be determined from a determined weighted unit asset augmented by the number of unit assets available. In still another aspect of the invention, the weighting factors may be predeterminedly set at an equal value and then dynamically adjusted to create a greater weight or influence of one factor over another.

[0022] Asset score may be determined using a methodology similar to that disclosed in co-pending U.S. patent application number 09/676, 391, filed September 29, 2000, entitled "An Improved Method and System for Indemnifying Subrogation Potential and Valuing a Subrogation File," the entire of which is hereby incorporated by reference.

[0023] An inquiry 280 is made to determine whether there are sufficient claims or assets available to satisfy the buyers needs.

[0024] Although not shown, it would be appreciated that the auction process may then begin wherein each of the potential buyers 60 may place one of more bids for the

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purchase of the claims or assets subject to the bankruptcy proceedings. The bidding is completed by either the expiration of the duration of the auction process or when no additional bids are received. At the conclusion of the auction process, a reconciliation of the funds due the seller and the owed by the buyer may occur.

[0025] Figure 1e is representative of a continuation of an exemplary bankruptcy auction process in accordance with the principles of the present invention. In this continuation of the illustrative auction process, if there are sufficient assets or claims to meet the buyers needs which are consistent with the buyers established criteria or preferences, then a buyer transaction is initiated at block 290. In one aspect of the invention, a buyer transaction may include a confirmation of acceptance of the highest bid price. In another aspect of the invention, a buyer transaction may include dynamically grouping like-claims from one or more cases of bankruptcy claims or sellers to meet the needs of the buyer. Bids and subsequent sale price are then stored, at block 292, to provide data for subsequent determination of market value for same or similar assets.

[0026] If, however, there is an insufficient number of claims or assets that satisfy the buyer's needs, then a determination is made at block 295 whether the available claim or asset volume is greater than the buyer's need. If the determined claim or asset volume is greater than the buyer's needs, then the claims or assets are reviewed at block 297 to determine whether the amount of claims or assets can be divided or apportioned into smaller groups or amounts. If the answer is in the affirmative, then a buyer's transaction is initiated at block 290. Bids and subsequent sale price are then stored at block 292, to provide data for subsequent determination of market value for same or similar assets. If,



however, the answer is in the negative then a seller notification process is initiated at block 299. The seller notification process may inform the seller of the buyer's need. The seller may then inject additional claims or assets into the auction process to satisfy the buyer's needs. Bids and subsequent sale price are then stored at block 292 to provide data for subsequent determination of market value for same or similar assets.

[0027] If however, the claimed value volume is less than the buyer's needs, then a seller notification process is initiated at block 299. Bids and subsequent sale price are then stored at block 292 to provide data for subsequent determination of market value for same or similar assets.

[0028] Figure 2 illustrates a block diagram 300 for determining a market value/asset score of an asset in accordance with the principles of the invention. In this illustrated example, each asset is valued or characterized based on claim or asset attributes such as claim size, debtor, creditor, etc. at block 310. Asset value or characterization is also affected, or adjusted, by factors such as market price, buyer preference, etc. In one aspect of the invention, a simple average asset value when each previously bid upon or sold claim or asset is the same the current claim or asset. In another aspect of the invention, a weighted average may be used when previously bid upon or sold claims or assets are the same as, or similar to, the current claims or assets. A formulation of a market value may further consider factors such as type of industry, asset ratio, asset location, creditor, credit rating, claim value, asset class, disputed or not disputed claim, the nature of the claim and the claim amount, etc. At block 320 an asset score is determined using known arithmetic functions or operations. For example, asset score may be determined by translating an asset or market value, wherein the asset score

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may be in a range of zero-100. At block 330, determined market values/assets scored are ordered according to buyer preferences and claimed value.

[0029] Figure 3 illustrates a flow chart of an exemplary process 350 for determining a market value/asset score of one or more bankruptcy claims or assets. In this exemplary process, historical data regarding previous sales, offers, bids and/or distributions of the same or similar claims or assets to those claims or assets currently in bankruptcy proceedings are collected at block 355. Similar assets may be selected based on the type of asset, general category of asset, etc. For example, if the claim or asset in bankruptcy were one or more cars, then type of assets may be selected from cars having similar characteristics, such as model and year, engine size, price range, etc. Further, the type of asset may be selected from similar American, European or Japanese cars having similar characteristics. General category of asset may include selection of cars, sport utility vehicles, trucks etc., which are included within a similar range of price, model year or mileage. As would be appreciated, a similar type or category of asset may be determined for each bankrupt asset.

[0030] At block 360, a determination is made regarding a suggested base market value of the bankrupt claim or asset. In one aspect of the invention, a base market value may be determined by formulating an average value of historical sales, and/or offers and/or distributions of the same asset. In another aspect of the invention, a base market value may be determined by formulating a weighted average value of historical sales, and/or offers and/or distributions of the same and similar assets. In this aspect of the invention historical sales, offers or distributions of a same asset is weighted more than historical sales, offers or distributions of similar types or categories of assets. Returning

to the example of the bankrupt asset being one or more cars, historical sales of the same make and model car may be weighted more or provided greater influence than historical sales of makes and models from the same manufacturer, which is weighted more or provided greater influence than historical sales of similar or comparable makes and models of different manufacturers, etc. Weighted averages are well known in the art.

[0031] At block 365, an adjustment to the determined market value is determined based, for example, on the type goods, the location of the goods, the duration of the bankruptcy sale, announcements regarding the bankruptee, the court or competitors, the seller's need, the buyer's credit etc. An adjustment may decrease the determined market value of seasonal goods, such as clothing being sold outside the season of their use. Similarly, a market value of goods located in a region that is not suited for their use, e.g., snowblowers in Florida, may also be reduced. Decreases in the market value may similarly occur for perishable goods that are on sale for a period substantially similar to their expiration date. Announcements by the U.S. Bankruptcy Court, for example, in forcing a sale may further reduce the determined market value. Similarly, an announcement by a competitor or a similar business entity regarding earnings, market forces, etc., may present the potential of similar assets being made available and consequentially affecting the determined market value. As would be appreciated, positive adjustment to a determined market value may also be determined.

[0032] At block 370 a determination is made whether an asset score is to be determined. If the answer is in the affirmative, than an asset score is determined at block 375. As previously discussed an asset score may be determined using a methodology similar to that disclosed in co-pending U.S. patent application number 09/676,391.

[0033] Figure 4 illustrates an exemplary embodiment of a system 400 that may be used for implementing the principles of the present invention. System 400 includes one or more sources 410, one or more input/output devices 443, a processor 446 and a memory 404. Source(s) 410 may represent communication devices, such as computers, laptops, modems, servers, telephones, facsimile machines, photocopiers, etc., that have access to bankruptcy court filings or claim administrator filings, which may be stored on databases 59 (40). Source(s) 410 may alternatively be in communication with one or more network connections for receiving data from a server or servers over network 420, e.g., a global computer communications network such as the Internet, a wide area network, a metropolitan area network, a local area network, a terrestrial broadcast system, a cable network, a satellite network, a wireless network, or a telephone network, as well as portions or combinations of these and other types of networks.

[0034] Input/output devices 430 may be in communication with network 420 or may be in direct communication with input source 410. I/O devices 430 provide means for entering data into, and transmitting data from, processor 443 and memory 446. Data received by I/O devices 430 may be immediately accessible by processor 443 or may be stored in memory 446. As will be appreciated, I/O device 430 may also allow for manual input, such as a keyboard or keypad entry or may read data from magnetic or optical medium (not shown).

[0035] I/O devices 430, processors 443 and memory 446 may be in direct communication or in communication over medium 445, as shown. Communication medium 445 may represent, for example, a bus, a communication network, one or more

internal connections of a circuit, circuit card or other device, as well as portions and combinations of these and other communication media.

[0036] Data from the source(s) 410 received by I/O devices 430 is processed in accordance with one or more software programs operable to perform the functions illustrated in Figures 2 and 3, which are stored in memory 446 and executed by processor 443. The output of processor 443 may then be transmitted over network 450 to output devices 460.

[0037] In a preferred embodiment, the coding and decoding employing the principles of the present invention may be implemented by computer readable code executed by processor 443. The code may be stored in the memory 446 or read/downloaded from a memory medium such as a CD-ROM or floppy disk (not shown). In other embodiments, hardware circuitry may be used in place of, or in combination with, software instructions to implement the invention. For example, the elements illustrated herein may also be implemented as discrete hardware elements. As would be appreciated, processor 443 may be means, such as general purpose or special purpose computing system, or may be a hardware configuration, such as a dedicated logic circuit, integrated circuit, Programmable Array Logic (PAL), Application Specific Integrated Circuit (ASIC), that provides known outputs in response to known inputs.

[0038] According to a preferred embodiment of the present invention, only registered clients or members are permitted to submit a bid related to one or assets in bankruptcy, after being notified of the availability of the asset. To bid, a member may access or view a centralized area at a remote location, such as an Internet webpage that contains one or more assets that are available for sale or auction and which the buyer has

expressed an interest. The potential buyer may also review information regarding the asset or assets available. The member may then click on an indicator, e.g., a "Bid" box, to enter an amount. The member may then be prompted to enter a user name and password and then be instructed to click on a second indicator, e.g., a "Submit" button. A bidding member or user should be sure to have read the item description thoroughly before placing a bid as it is a contract to buy the item that in a preferred embodiment cannot be revoked.

[0039] Auctions, and/or claims or assets within an auction, may be identified using an asset listing ID number. This identification can also be advantageously used to match due diligence materials with the correct asset.

[0040] According to one form of the present invention, there are three possible outcomes of an auction: 1) the asset is sold to the highest bidder, 2) the asset is not sold because no bids were placed, or 3) bidding did not meet the seller's reserve price or minimum acceptable bid. The seller may consider completing the sale by accepting the highest bid. In either case, the bids and/or sale prices are stored for subsequent determination of same or similar assets.

[0041] Although the invention has been described in a preferred form with a certain degree of particularity, it is understood that the present disclosure of the preferred form has been made only by way of example, and that numerous changes in the details of construction and combination and arrangement of parts may be made without departing from the spirit and scope of the invention as hereinafter claimed. It is intended that the patent shall cover by suitable expression in the appended claims, whatever features of patentable novelty exist in the invention disclosed.